

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL REPORTER AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO THIS OR ANY OTHER COURT, BUT MAY BE CALLED TO THE ATTENTION OF THIS OR ANY OTHER COURT IN A SUBSEQUENT STAGE OF THIS CASE, IN A RELATED CASE, OR IN ANY CASE FOR PURPOSES OF COLLATERAL ESTOPPEL OR RES JUDICATA.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, Foley Square, in the City of New York, on the 9th day of two thousand and six.

PRESENT:

HON. RALPH K. WINTER,
HON. CHESTER J. STRAUB,
HON. ROBERT A. KATZMANN,
Circuit Judges.

Qi Jian Guo,

Petitioner,

v.

No. 05-4602-ag
NAC

United States Attorney General,

Respondent.

FOR PETITIONER: Gang Zhou, New York, New York.

FOR RESPONDENT: James R. Dedrick, United States Attorney for the Eastern District of Tennessee, Tammy Owens Combs, Assistant United States Attorney, Chattanooga, Tennessee.

UPON DUE CONSIDERATION of this petition for review of a decision of the Board of Immigration Appeals (“BIA”), it is hereby ORDERED, ADJUDGED, AND DECREED, that the

petition for review is DENIED.

Qi Jian Guo, though counsel, petitions for review of the BIA's decision affirming Immigration Judge ("IJ") Paul A. DeFonzo's decision denying Guo's applications for asylum and withholding of removal. We assume the parties' familiarity with the underlying facts and procedural history of the case.

When the BIA issues an opinion that fully adopts the IJ's decision, this Court reviews the IJ's decision directly. *See, e.g., Chun Gao v. Gonzales*, 424 F.3d 122, 124 (2d Cir. 2005); *Secaida-Rosales v. INS*, 331 F.3d 297, 305 (2d Cir. 2003). This Court reviews the agency's factual findings, including adverse credibility determinations, under the substantial evidence standard, treating them as "conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary." 8 U.S.C. § 1252(b)(4)(B); *see, e.g., Zhou Yun Zhang v. INS*, 386 F.3d 66, 73 & n.7 (2d Cir. 2004). Nevertheless, "the fact that the [agency] has relied primarily on credibility grounds in dismissing an asylum application cannot insulate the decision from review." *Ramsameachire v. Ashcroft*, 357 F.3d 169, 178 (2d Cir. 2004). An adverse credibility determination must be based on "specific, cogent reasons" that "bear a legitimate nexus" to the finding. *Secaida-Rosales v. INS*, 331 F.3d at 307.

In this case, the IJ, as affirmed by the BIA found, Guo's testimony incredible because: (1) Guo did not know the day or month of his marriage or children's birthdays; (2) Guo failed to corroborate his claim with affidavits from his family members; (3) Guo's claim at the hearing that he was taken into custody and that family planning officials had looked for him about ten times was omitted from his asylum application; (4) Guo's applications for advanced parole were supported with false documents obtained by a service agency; (5) Guo's asylum application was

prepared by the same service agency; (6) the United States Department of State report indicates that there is a high incidence of fraudulent documentation emanating from Fujian Province, where Guo is from; and (7) Guo's statement that he bickered with his wife at the family home after she returned from the sterilization appeared inconsistent with his testimony that he was hiding from the officials and afraid to return to his home. All but the last two are "specific, cogent reasons" that "bear a legitimate nexus" to the finding. *Zhou Yun Zhang*, 386 F.3d at 74 (internal quotations omitted)).

While the IJ may have erred as to these last two factors, Guo's inability to provide specific dates, his failure to provide corroboration, his omissions for his written application, and his false advanced parole application, still provide overwhelming evidence against Guo's credibility, such that we can confidently predict that the IJ would reach the same result even absent his final two stated grounds. *See Xiao Ji Chen v. U.S. DOJ*, 434 F.3d 144, 161 (2d Cir. 2006).

For the foregoing reasons, the petition for review is DENIED. The pending motion for a stay of removal is DENIED as moot.

FOR THE COURT:
Roseann B. MacKechnie, Clerk

By: _____